

1 HONORABLE RONALD B. LEIGHTON
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JULIE SCHMIDT and LEON GERHARD,

Plaintiffs,

v.

TACOMA POLICE DEPARTMENT'S
CLO'S, et al.,

Defendants.

Case No. 09-5135RBL

ORDER

THIS MATTER comes before the above-entitled Court on Plaintiffs' Motion to Strike Affirmative Defenses pursuant to Fed. R. Civ. P. 12(f). The Court has reviewed the materials submitted for and against said motion. Oral argument is not necessary to resolve the issue raised in this motion.

Motions to strike affirmative defenses are generally disfavored. *Securities & Exch. Com'n v. Sands*, 902 F. Supp. 1149, 1166 (C.D. Cal. 1995). In determining motions to strike, courts construe the defendant's answer and affirmative defenses in the light most favorable to the defendant. *Quintana v. Baca*, 233 F.R.D. 562, 564 (C.D. Cal. 2005). The representations made by plaintiffs in support of their motion firmly establish that questions of fact and disputed questions of law pervade to such an extent that this Court cannot conclude

1 that Defendants' affirmative defenses could not succeed under any set of circumstances. For that reason, the
2 Motion to Strike Affirmative Defenses [Dkt. #32] is **DENIED**.

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4 Done in Open Court this 30th day of December, 2009.
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9 RONALD B. LEIGHTON
10 UNITED STATES DISTRICT JUDGE
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